

REMARKS

Claims 2, 4 and 15 have been amended. Claims 8 - 12, 17 - 19 and 21 - 36 have been withdrawn from consideration. Claims 1 and 14 have been canceled. Claims 37 - 40 have been added. No new matter has been added. Thus, claims 2 - 13 and 15 - 40 remain pending in this application. In view of the following remarks, it is respectfully submitted that all of the pending claims are allowable.

Claim 4 stands objected to as containing an informality. Claim 4 has been amended as instructed to recite “axis of rotation.” In view of this amendment to claim 2, it is respectfully requested that the objection of claim 4 be withdrawn.

Claims 2 - 4 and 13 stand rejected under 35 U.S.C. 102(b) as anticipated by U.S. Patent No. RE31,040 to Possis.

Amended claim 2 recites an implant comprising “at least one coupler having at least two connecting elements for engaging a first member to a second member, the connecting elements permitting the first member to rotate with respect to the second member, and wherein the connecting elements are pins pivot-mounted in the first member, *the first member being a bone plate having a screw hole extending from a top surface thereof to a bottom surface thereof sized and configured to receive the at least one coupler via the connecting elements.*”

The Examiner indicated that the subject matter of claims 14 - 16 and 20 would be allowable if rewritten in independent form. (*See* 4/2/10 Office Action, p. 4). As the limitations of dependent claim 14 have been incorporated into independent claim 2, it is respectfully submitted that claim 2 is allowable. Because claims 3 - 4 and 13 depend from and therefore include all of the limitations of independent claim 2, it is respectfully submitted that these claims are also allowable.

New claim 37 recites a bone plate comprising “a bone fixation element receiving hole extending through the bone plate along a hole axis from a first surface to a bone contacting surface thereof which, when the plate is mounted on a bone in a desired location faces the bone; and a coupler pivotally mounted within the bone fixation element receiving hole, the coupler

including first and second connecting elements engaging a wall of the bone fixation element receiving hole and including an opening therein for receiving a bone fixation element therein so that the bone fixation element may be pivoted relative to the hole axis.” It is respectfully submitted that claim 37 recites limitations substantially similar to claim 2 and is allowable over Possis for at least this reason. Furthermore, it is respectfully submitted that Possis fails to teach or suggest a bone plate at all, much less “a bone fixation element receiving hole extending through the bone plate” or “a coupler pivotally mounted within the bone fixation element receiving hole, the coupler including first and second connecting elements engaging a wall of the bone fixation element receiving hole and including an opening therein for receiving a bone fixation element therein so that the bone fixation element may be pivoted relative to the hole axis,” as recited in claim 37. Rather, Possis is directed to a heart valve prosthesis having a valve member configured to permit a flow of blood therethrough. (*See* Possis, col. 2, ll. 12 - 36; Fig. 1). It is respectfully submitted that nothing in Possis is capable of meeting the aforementioned limitations in claim 37 and that claim 37 is therefore in condition for allowance. Because claims 38-40 depend from and therefore include all of the limitations of independent claim 37, it is respectfully submitted that these claims are also allowable.

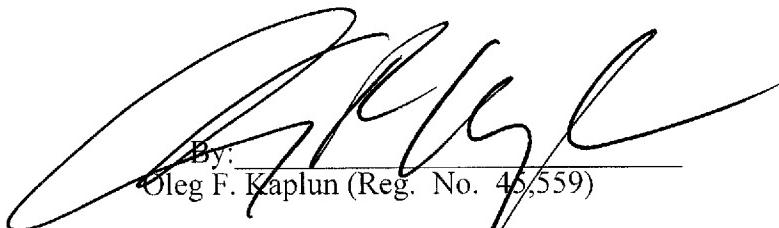
Claims 5-7 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Possis in view of U.S. Patent No. 2,877,792 to Tybus.

Claims 5 - 7 depend from and therefore include all of the limitations of independent claim 2. As noted above, Possis fails to teach or suggest the limitations of claim 2. Tybus fails to cure these deficiencies in Possis. It is therefore respectfully submitted that claim 2 is allowable over Possis and Tybus, taken alone or in combination. Claims 5 - 7 are therefore also allowable as being dependent on an allowable base claim.

It is therefore respectfully submitted that all of the presently pending claims are allowable. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

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